

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-16 are pending in the present application, with claims 1, 2, and 3 being independent.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication on page 4 of the outstanding Office Action that claims 3 and 13-16 are allowed. Applicants further appreciate the Examiner's indication that claim 12 would be allowable if rewritten to overcome the rejection under 35 USC §112, second paragraph. For at least the reasons detailed below, Applicants respectfully submit that all pending claims should be considered allowable.

Drawings

The Examiner objected to the drawings stating that the rotating axle 2.1 should be designated in Fig. 2, and that Applicants should clarify the designation of channel 6 in Fig. 3.

Applicants fail to understand the Examiner's confusion with respect to Figs. 2 and 3. For example, Fig. 1 clearly shows the rotating axle 2.1 connecting the rotary knob 2 with the attached part 3. Fig. 2, as noted in the description of the drawings, is a top view of the attached part from Fig. 1 in cross section. Furthermore, referring to paragraph 23 of the present application, it is clearly noted that by turning the rotary knob 2 that the gear 5.1

is rotated. Thus, it is clear from the drawings and the specification how the rotary knob 2 interacts with the attached part 3.

Regarding Fig. 3, Applicants also fail to understand the Examiner's confusion. The channel 6 is a clear representation of the section A-A of the attached part from Fig. 2.

Thus, Applicants would greatly appreciate if the Examiner could further express as to why either Fig. 2 or Fig. 3 should be amended.

Accordingly, in view of the above discussion, withdrawal of the objection is respectfully requested.

Claim Rejections – 35 USC §112

The Examiner rejected claims 4, 9, and 12 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

Specifically, the Examiner states that Applicants should clarify the feature that the "gear pump is an external gear pump." The Examiner further states that it is not clear what the pump is external to.

Applicants have amended the claims in an effort to clarify the claims. Accordingly, withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 USC §103

The Examiner rejected claims 1-2 and 4-11 under 35 USC 103(a) as being unpatentable over *Carlson* (US 6,117,093) in view of *Bailey* (WO 02/35457). This

rejection is respectfully traversed insofar as it pertains to presently pending claims.

Regarding the applied rejection against independent claims 1 and 2, Applicant respectfully submits that the Examiner failed to establish a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met: (1) there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference must teach or suggest all the claim limitations, see *In re Vaeck*, 947 F.2d 48, 20 USPQ2d 1438 (Fed.Cir.1991).

Regarding independent claims 1 and 2, Applicants respectfully submit that the cited art, either alone or in combination, fails to teach or suggest that “a flow direction of the magnetorheological fluid and thereby a direction of rotation of the rotary knob can be determined on the basis of the fluid flowing past the coil,” as recited in independent claims 1 and 2.

In fact, neither Carlson nor Bailey even remotely teach or suggest that a direction of rotation is detected. Thus, a prima facie case of obviousness cannot be substantiated.

Dependent claims 4-11 should be considered allowable at least for depending from an allowable base claim.

Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin Geissler (Reg. 51,011) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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